PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of	Docket No: Q78605
Akiyoshi CHOSOKABE	
Appln. No.: 10/726,612	Group Art Unit: 3714
Confirmation No.: 5767	Examiner: Tramar Yong HARPER
Filed: December 4, 2003	

For: GAME DEVICE, GAME CONTROL METHOD AND PROGRAM

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.41, Appellant respectfully submits this Reply Brief in response to the Examiner's Answer dated February 26, 2008. Entry of this Reply Brief is respectfully requested.

Table of Contents

STATUS OF CLAIMS

Claims 1-14 are pending and are the basis of this Appeal.

Claim 1-14 stand rejected.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1-14 comply with the written description requirement so as to be patentable under 35 U.S.C. § 112, first paragraph.

B. Whether the amendment to the specification filed on February 13, 2007 adds new matter to the present disclosure, and is therefore objectionable under 35 U.S.C. § 132(a).

For the purposes of this appeal, independent claims 1, 4, 5, and 6, and the claims dependent thereon, stand together.

Appellant further notes that the Examiner's rejection of claims 1-5 under 35 U.S.C. § 102(b) as allegedly being anticipated by Iwase (5,616,079) and the Examiner's rejection of claims 1-5 under 35 U.S.C. § 102(b) as allegedly being anticipated by Yamazaki et al. (6,280,323) in the first Office Action dated November 13, 2006 have been overcome by the arguments and amendments made in the Amendment under 37 C.F.R. § 1.111 filed on February 13, 2007 and were not again presented in the final Office Action dated July 17, 2007. Thus, the claims are otherwise considered patentable over the prior art.

ARGUMENT

Appellant stands by the arguments presented in the January 22, 2008 Appeal Brief. Additionally, Appellant provides the following remarks in response to the Examiner's Answer, dated February 26, 2008.

The heart of the issue on appeal is exposed in the Examiner's allegation that "[t]he mathematical formula defines image composition rate = P0 + P1 × σ1." (Answer Brief at 7.) This is a clear misconstruction of the language of the specification which would not be made by one of ordinary skill in the art. Indeed, the entirety of the mathematical expression "P0 + P1 × σ1" cannot reasonably be construed as either a rate or a ratio. It is, rather, the value "σ1" which is described as a "composition rate" in the original specification, and a "composition ratio" in the amended specification.

The original specification states the following:

> [A] result of adding a pixel value P0 corresponding to a pixel having the image composition rate set among the pixel values stored in the display storage section 14, to multiplication pixel value P1 having composition rate set times image composition rate σ1, that is a value of P0 + P1 × σ1, is set as a new pixel value.

(Original Specification at 12, 13 (emphasis added.))

Although the above-quoted language is admittedly somewhat awkward, it makes the following points abundantly clear. First, "a value of P0 + P1 × σ1, is set as a new pixel value." Thus, the expression P0 + P1 × σ1 cannot be a "rate" or "ratio" itself, but is rather an expression for calculating a new pixel value. Second, the value "σ1" is described as "image composition rate σ1," which directly contradicts the Examiner's assertion that the entire expression "P0 + P1 × σ1" should be construed as the "composition rate."

CONCLUSION

For the above reasons as well as the reasons set forth in Appeal Brief, Appellant respectfully requests that the Board reverse the Examiner's rejections of all claims on Appeal.

An early and favorable decision on the merits of this Appeal is respectfully requested.

Respectfully submitted,

/Alan J. Kasper/

Alan J. Kasper
Registration No. 25,426

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: April 18, 2008